

### REMARKS/ARGUMENTS

Entry of this amendment and reconsideration of the present application, as amended, are respectfully requested.

Claims 1, 2, 4-6 and new claims 7-24 are pending in this application. Claim 3 is cancelled. Claims 2 and 4 are allowable. Claims 1, 5 and 6 were rejected.

#### Disclosure

The specification is amended to provide accurate recitation of the chain of preceding applications and their patent number, if issued. Other spelling errors are also corrected.

In view of the changes, it is respectfully submitted that the Examiner's objection to the disclosure has been overcome and should be removed.

#### Claim Rejections

Claims 1, 5 and 6 were rejected under 35 U.S.C. §102(b) as being anticipated by Breed (U.S. Patent Application Publication No. 2001/0002451). For the purposes of the rejection, the Examiner considered the subject matter of at least claim 1 to be entitled only to the benefit of the filing date of the instant application, i.e., not entitled to the benefit of the filing date of any of the related applications from which priority under 35 U.S.C. §120 is claimed.

The Examiner's rejection is respectfully traversed on the grounds that the subject matter of claims 1, 5 and 6 is believed to be disclosed in a parent application, U.S. patent application Ser. No. 09/679,317 (the '317 application) filed October 4, 2000, so that it is entitled to the benefit of the filing date thereof pursuant to 35 U.S.C. §120, and the filing date of the '317 application predates the filing date of the application which published as Breed '451 (i.e., U.S. patent application Ser. No. 09/753,186, filed January 2, 2001).

Priority of the '317 application has been properly claimed under 35 U.S.C. §120, through, for example, intervening application U.S. patent application Ser. No. 10/118,858 filed April 9, 2002, there is continuity of disclosure through this intervening application, and there is at least one common inventor named in the instant application and the '317 application, i.e., David S. Breed.

As to support for the claimed subject matter in the '317 application, the rejected claims are set forth below in chart form with an indication of the disclosure thereof in the '317 application (reference being made to U.S. Patent No. 6,405,132 which issued from the '317 application).

<p>1. An apparatus for sensing a potential rollover situation involving a vehicle, comprising:</p> <p>an inertial reference unit including three accelerometers and three gyroscopes which provide data on vehicle motion;</p> <p>vehicle control devices arranged to affect control of the vehicle; and</p> <p>a processor coupled to said inertial reference unit and said vehicle control devices and including an algorithm arranged to receive data from said inertial reference unit and control said vehicle control devices to apply at least one of the throttle, brakes and steering to prevent the rollover.</p>	<p>With reference to Fig. 5, an inertial reference unit includes three accelerometers 78 and three gyroscopes 80 (see Col. 71, lines 41-47). Vehicle control devices include, for example, the driver warning system 66 (see col. 71, lines 5-13), the brake servo 70, the steering servo 72 and the throttle servo 74 (see col. 71, lines 30-35). A processor 110 is coupled to the accelerometers 78, gyroscopes 80, and vehicle control devices 66, 70, 72, 74 and includes an algorithm for vehicle control for accident prevention (see col. 38, lines 37-67), which include rollovers (see col. 62, lines 20-33).</p>
<p>5. The apparatus of claim 1, wherein a first one of said accelerometers is arranged to sense vehicle acceleration in a latitude direction, a second one of said accelerometers is arranged to sense vehicle acceleration in a longitudinal direction and a third one of said accelerometers is arranged to sense vehicle acceleration in a vertical direction.</p>	<p>Three accelerometers 78 each measure acceleration in a respective direction (see col. 71, lines 43-45).</p>
<p>6. The apparatus of claim 1, wherein a first one of said gyroscopes is arranged to sense angular rate about the pitch axis, a second one of said gyroscopes is arranged to sense angular rate about the yaw axis and a third one of said gyroscopes is arranged to sense angular rate about the roll axis.</p>	<p>Three gyroscopes 80 each measure angular rate about a respective axis (see col. 71, lines 46-47).</p>

In view of the foregoing chart, it is respectfully submitted that the subject matter of rejected claims 1, 5 and 6 is adequately disclosed in the parent '317 application to be entitled to the benefit of the filing date thereof. The subject matter is also present in intervening U.S. patent application Ser. No. 10/118,858.

Since the subject matter of the pending claims is entitled to the benefit of a filing date preceding that of the Breed application, Breed should not be available as prior art and accordingly, the Examiner's rejection of claims 1, 5 and 6 as being anticipated by Breed has been overcome and should be removed.

Claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over Breed in view of Peterson et al. (U.S. Pat. No. 5,332,180).

Claim 3 has been cancelled and therefore this rejection has been rendered moot.

New Claims

Claims 7-24 are presented. These claims are directed to the same invention as claim 1, a vehicle including an apparatus for preventing rollovers, and therefore should be considered in this application together with claim 1.

In view of the presentation of claims 7-24, there will be six independent claims, i.e., three independent claims in excess of three, and twenty-three claims, i.e., three claims in excess of twenty. Therefore, an additional claim fee of \$375.00 is required, based on small entity status, and the fee should be charged to Deposit Account No. 50-0266.

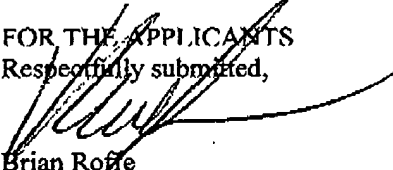
Conclusion

In view of the foregoing, it is respectfully submitted that the present application is now in condition for allowance.

If the Examiner should determine that minor changes to the claims to obviate informalities are necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

An early and favorable action on the merits upon entry and consideration of this amendment is earnestly solicited.

FOR THE APPLICANTS  
Respectfully submitted,

  
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